

Department of Public Health  
and Human Services

Section:  
RESOURCES

FOOD STAMP PROGRAM

Subject:  
Trust Funds

**Supersedes:** FS 402-3 (11/01/01)

**References:** 7 CFR 273.8

GENERAL RULE -- All trusts must be evaluated for their availability for the household's support and maintenance.

## DEFINITIONS

**Beneficiary:** The beneficiary is the individual designated in the trust instrument as benefitting in some way from the trust. The beneficiary can be the grantor or another individual.

**Grantor:** The grantor is the entity creating the trust. The grantor may be any person, including a court or administrative body, with legal authority to act on behalf of the individual; or any person including a court or administrative body, acting at the direction or request of the individual.

**Trust:** A trust is any arrangement a grantor transfers property (real or personal) with the intention that it be held, managed, or administered by a trustee(s) for the benefit of the grantor or other beneficiary(ies). Trusts are managed by individuals or entities with fiduciary obligations and may include but are not limited to:

1. Escrow accounts;
2. Investment accounts;
3. Future medical care accounts; and,
4. Other similar arrangements.

**Trustee:** A trustee is any individual(s) or entity (e.g., an insurance company or bank) managing a trust and having fiduciary responsibilities.

## SUPPORT AGREEMENTS

If any member of the filing unit has a written agreement stating another person, entity, or corporation agrees to support the household or a member of the household (e.g., Masonic agreement or by-laws of a Hutterite Colony), the agreement must be evaluated to determine if it meets the legal definition of a trust.

If the agreement is determined to meet the trust definition, it must be evaluated for accessibility. If the trust is considered to be accessible, the value of all the resources held by the trust must be counted in determining

the household's resource eligibility. It is necessary to request verification of all resources held by the trust.

If the trust is accessible and verification is received only a portion of the trust is available to the individual, only that portion is counted in the resource determination. If verification is not received, the full value of the trust is considered available.

**NOTE:** OPA Case Managers should submit all support agreements to their Regional Policy Specialist (RPS). The RPS will forward the support agreement to Central Office Policy Specialists and Department Legal staff to be evaluated.

## ACCESSIBILITY

The trust may be designated as revocable or irrevocable.

Trust funds are considered inaccessible (excluded) to the household **if all of the following are met:**

1. The trust arrangement is not likely to cease during the certification period, and the household member(s) does not have the power to revoke the trust arrangement or change the name of the beneficiary during the certification period; **and,**
2. The trustee administering the funds is either:
  - a. a court, institution, corporation, or organization is not under the direction or ownership of any household member; **or,**
  - b. an individual appointed by the court having court imposed limitations placed on the use of the funds; **and,**
3. Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household **member; and,**
4. Funds held in irrevocable trust are either:
  - a. the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; **or,**

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- b. non-household funds by a non-household member.

**SPECIAL NEEDS  
TRUST**

Special needs trusts under Medicaid are generally countable because the money in the account can be used for living expenses (see 'Accessibility' in this section).

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